

Office of Personnel Management

FPM Letter 792-12

Federal Personnel Manual System**FPM Letter** 792-12Published in advance
of incorporation in FPM

Chapter 792

RETAIN UNTIL SUPERSEDED**SUBJECT:** Cooperative Employee Counseling Services Program

Washington, D. C. 20415

May 20, 1980

Heads of Departments and Independent Establishments:

1. Public Laws 91-616¹ and 92-255,² as amended by Public Law 93-282,³ require Federal departments and agencies to develop and maintain appropriate prevention, treatment and rehabilitation programs and services for civilian employees with alcohol or drug problems, respectively. Office of Personnel Management (OPM) guidelines for implementing these programs are in FPM Subchapter 792-5, FPM Supplement 792-2 and FPM Letter 792-8 of August 25, 1977.

2. Public Laws 91-616 and 92-255 were further amended on January 2, 1980 by Public Laws 96-180⁴ and 96-181,⁵ respectively. These amendments authorize agencies to extend program services, where feasible, to:

- a. Families of employees with an alcohol or drug problem, and
- b. Employees with family member(s) with an alcohol or drug problem.

3. Public Law 79-658⁶ authorized agency establishment of health service programs to promote and maintain the physical and mental fitness of Federal employees. Implementing guidelines are in OMB Circular A-72 of June 18, 1965, FPM Chapter 792-1, FPM Supplement 792-1, and FPM Letter 792-9, of May 23, 1979.

¹ USC 4541 et seq. Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970, approved December 30, 1970.

² 21 USC 1180 et seq. Drug Abuse Office and Treatment Act of 1972, approved March 21, 1972.

³ Public Law 93-282 of May 14, 1974 governs the confidentiality of client records. The Act has been incorporated in the Code as amendments to 42 USC 4541 et seq. Of particular concern are sections 122 and 303 of P.L. 93-282 which amend sections 333 of P.L. 91-616 (42 USC 4582) and 408 of P.L. 92-255 (21 USC 1175) respectively.

⁴ An Act to revise and extend the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970; approved January 2, 1980.

⁵ An Act to amend the Drug Abuse Office and Treatment Act of 1972, and for other purposes; approved January 2, 1980.

⁶ 5 USC 7901.

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Code: 792- Federal Employees Occupational Health Program

Distribution: FPM

4. Based on the above, several agencies have incorporated their Federal Civilian Employee Alcoholism and Drug Abuse Programs into an Employee Counseling Services Program -- or a broader management system for assisting employees with job problems stemming from a wider range of emotional-behavioral problems. Such programs have proven useful and effective, if skilled counselors are available to help employees identify the nature of their problem, and refer them to appropriate community treatment resources.
5. Consonant with OMB Circular A-76, agencies may obtain such skills and services in one of the following ways, outlined in OMB Circular A-72:
 - a. By utilizing professional staff or facilities existing in the department or agency at locations where adequate; or;
 - b. Where an agency's staff or facilities are not adequate, by entering into an appropriate agreement with another Federal department or agency at locations where that department or agency has available adequate professional staff or facilities; or,
 - c. Where neither the agency nor another Federal department or agency has adequate staff or facilities available, by establishing the department's or agency's own professional staff or facilities or by entering into an appropriate agreement with qualified private or public sources for professional services, including consulting services, or facilities.
6. Since the requisite skills and services are often not available within the existing staff of many agencies, they are increasingly using the other alternatives indicated above. Particularly, they are pooling resources to jointly contract for the needed skills and services.
7. Agency expenditure of appropriated funds for the procurement of diagnostic and preventive psychological counseling services for employees has been clearly authorized by Comptroller General Decision B-187074, dated November 7, 1977. Such services should not include treatment, but rather problem identification, referral for treatment or rehabilitation and follow-up to aid an employee in effective readjustment on the job during and after treatment.
8. Agency decisions to obtain services through agency vs. contract personnel should also be governed by revised OMB Circular A-76 dated March 29, 1979. It provides that where needed services can be provided by the private sector and there are no overriding factors requiring in-house performance, the most economical means of obtaining the services should be used. Thus A-76 provides that services should be obtained by contract, unless no satisfactory commercial source is available, or the Government can provide the service at a lower total cost than a private purveyor.
9. Joint agency use of central support services, such as health units, is also a long established and encouraged practice.⁷ The General Accounting Office has favorably reviewed some early joint agency counseling programs. In their report to the Congress entitled "Most Agency Programs for Employees with Alcohol-Related Problems Still Ineffective" (B-164031(2)), dated September 7, 1977, GAO states that:

⁷ See Public Law 79-658, OMB Circular A-72, and 34 CFR 271, which superseded OMB Circular A-68.

A cooperative program is one in which a number of different agencies combine to establish an effective program to serve the employees of each agency. In our opinion, this approach is particularly advantageous in situations where there are many agencies in the same general area but each agency does not have a sufficient number of employees to justify the appointment of a well-trained coordinator who would be able to spend substantial time on the program . . .

We recommend that CSC (now OPM) and OMB support the development of consolidated employee assistance programs through FEBs. Since FEAs are not as formally established as FEBs we further recommend that OMB urge FEAs to consider establishing cooperative programs where applicable.

Finally, in areas where FEBs and FEAs do not exist, we recommend that the department and agency heads take the initiative and play an active role in establishing cooperative employee assistance programs to better serve employees in those locations.

10. This issuance transmits guidelines for developing cooperative interagency Employee Counseling Services Programs. The attached guidelines were developed in consultation with the Secretary of HEW, selected Federal agencies, and the national labor organizations. They are purposely broad, suggesting several alternative approaches; this is to encourage the development--in varying workforces and in varying geographic locations --of programs most likely to provide effective rehabilitation opportunities for employees with job problems stemming from emotional-behavioral problems.

11. Federal policy is to encourage agency establishment and use of cooperative programs when increased efficiency and economy will result, and neither program effectiveness nor essential internal administration of the agency will be hampered. Establishment of cooperative programs will be preceded by consultation with the Division of Federal Employee Occupational Health of the Public Health Service.

12. In addition, agencies should ensure appropriate involvement of recognized labor organizations. As in all areas of dealing with employee welfare, the benefits of employee acceptance and participation are greatly enhanced through early and positive bilateral dealings.

13. Development of cooperative agency programs first requires a survey of interest in participation among Federal installations located in close proximity in a given geographic area. In locations where a Federal Executive Board or Association exists, OPM's Regional Offices will work with them to complete such a survey and establish programs as appropriate. In other locations, department and agency heads are encouraged to initiate such a survey and establish appropriate cooperative programs for employees in their location. OPM's Regional Offices are responsible for providing technical assistance in all phases of developing and maintaining these programs.



Jule M. Sugarman
Deputy Director

CONTENTS

- I. Cooperative Program Model
 - II. Alternatives for Operating an Employee Counseling Services Program
 - A. Single Federal Agency Program
 - B. Cooperative or Multiple Federal Agency Program
 - 1. Using Another Federal Agency's In-house Capability
 - 2. Using Contract Capability, Obtained in Cooperation with Other Federal Agencies
 - III. Developing and Administering a Cooperative or Multiple Federal Agency Program with Contract Capability
 - A. Pre-award Functions
 - 1. Identifying requirements
 - 2. Ensuring funding
 - 3. Developing a request for proposals
 - 4. Obtaining proposals
 - 5. Evaluating proposals and awarding the contract
 - B. Post-award functions
 - 1. Contract changes and supplemental agreements
 - 2. Monitoring and evaluating contractor performance
 - a. Responsibilities of the Contracting Officer's Representative
 - b. Responsibilities of the Agency Management Committee
- Appendix A: Sample Memorandum of Agreement
- Appendix B: Request for Proposals: Sample Materials and Other Factors to Be Considered
- Appendix C: Responsibilities of the Contracting Officer's Representative

I. Cooperative Program Model

- A. The same basic tasks must be carried out in any employee services counseling program -- regardless of whether the program serves the employees of one or several agencies. These tasks are identified in FPM Sub Chapter 792-5, Sections 5-3 and 5-4, and include the following:

- Policy and program design and establishment
- Employee education
- Training appropriate management officials (including supervisory, safety, and security personnel)
- Developing and maintaining counseling capability (whether personnel, medical, and/or other counseling resources)
- Establishing liaison with community education, treatment and rehabilitation facilities
- Evaluating the program and reporting to management on results and effectiveness

To accomplish these, FPM subchapter 792-5 requires designation of a program administrator at the headquarters level to direct the program on an agency-wide basis and of a coordinator at each field installation to administer local operations. The agency administrator and local coordinator are to be organizationally placed so as to have an overview of how the program is being carried out -- by personnel, counseling, medical, and other functions assigned program responsibilities.

- B. In a cooperative agency program model, the installation coordinator also has management responsibilities, primarily ensuring that the appropriate services are delivered by the provider selected.

1. The specialized skills and service delivered by a provider may include:
 - Consulting on agency program and policy development
 - Conducting employee education programs
 - Training appropriate management officials
 - Advising managers, supervisors and union officials on the handling of specific employee cases
 - Counseling employees who are management, union or self-referred. This includes assistance in problem definition, referral to an appropriate community treatment resource and follow-up to insure that the employees receive appropriate help and make any necessary adjustments in job performance or conduct
 - Within the requirements of the confidentiality regulations, providing feedback on employee progress to the referring official
 - Establishing liaison with appropriate community resources -- identifying those where services are covered by employee health insurance
 - Assisting in program evaluation

2. The management responsibilities of the installation program coordinator may include:

- Developing installation policy and program design
- Evaluating installation program results
- Serving as a liaison between the service provider and the installation's pertinent management systems
- Selecting and monitoring the service provider
- In cooperation with the provider, preparing necessary management reports

II. Alternatives for Operating an Employee Counseling Services Program

As indicated in OMB Circular A-72, an agency may consistent with OMB Circular A-76 provide employee health services in a variety of ways. Outlined below are various program alternatives, detailed in subsequent sections:

Single Federal agency program, with the specialized skills and services provided by:

In-house capability, or

Contract capability

Cooperative or multiple Federal agency program, with specialized skills and services provided by:

- Another Federal agency's in-house capability, or
- Contract capability, with responsibility for contract leadership assumed by:

A participating Federal agency, or

Public Health Service, or

Office of Personnel Management

Before determining which alternative should be used at an installation, an agency needs to consider carefully the characteristics of the employee population to be served--including its size, demographic characteristics, geographic dispersion, and nature of the work performed. Once an assessment has been made about the type of program which will most effectively reach that population, one of the above alternatives should be selected based on the criteria identified in OMB Circular A-76.

However, the differences between these alternatives relate to the means through which specialized skills and services are delivered--not to the overall administration of the program. Ultimate responsibility for developing and maintaining an effective program for employees always rests with the employing agency.

A. Single Federal Agency Program

Many characteristics of a given work population may lead an agency to conclude that it is most desirable to continue a program which serves only its own employees and their families. The specialized skills and services may, however, be provided either by a qualified contractor or by qualified agency personnel (already in the workforce or specifically hired).

For example, an agency may rightly conclude that one of its large, geographically isolated installations would be best served by an on-site, in-house program. After examining the installation's annual counseling report results and other available measures of program effectiveness, the agency may also conclude that the installation has been able to maintain staff with the necessary skills to operate the program efficiently and in a cost-effective manner.

Conversely, an agency may conclude that with a large, but widely dispersed and mobile employee population, a centrally located program will not be effective. Examination of the annual counseling reports may substantiate that program efforts to-date have not been effective in reaching employees. The agency might therefore conclude that more effective services could be delivered by a series of counseling sites scattered throughout areas where employees normally work, or by regional "hotlines" staffed by counselors skilled in telephone interviewing and conversant with treatment resources in a wide geographic area. Further assessment might indicate that agency support staff cannot, practically, be de-centralized to provide services at numerous counseling sites and/or that existing agency personnel do not have requisite skills to effectively operate the program. The agency might therefore conclude that the necessary services could be best provided either by a series of small contractors distributed throughout the work territory; or a contractor with satellite locations; or by one contractor, skilled in the operation of "hotline" counseling services.

The potential program variations are numerous, and many installations have developed excellent single-agency programs for their employees. All too frequently however, where the workforce is not large enough to support employment of a skilled full-time program coordinator, other alternatives have not been developed. In such situations an agency should consider the following possibilities:

- (1) Hiring a part-time coordinator
- (2) Retaining a consultant on a limited basis
- (3) Contracting on a per capita basis with a nearby community resource which already provides the needed services (this might include buying into a consortium serving other Federal, State, or local government agencies and/or private businesses)

A fourth option for the agency to consider is pooling resources with other Federal agencies to form a cooperative program.

B. Cooperative or Multiple Federal Agency Program

This model may be appropriately used in numerous sites -- most frequently where the installation does not have a workforce large enough to support its own professionally run program, and has program needs which are compatible with those of other nearby employee groups. Once this model is selected, an agency must then determine the best way in which the needed skills and services can be obtained:

1. Using Another Federal Agency's In-House Capability

In some locations, there may be a Federal installation which has a sufficiently large workforce to support investment in qualified

personnel to operate their own employee counseling services program. Consonant with OMB Circular A-76, smaller neighboring installations may wish to explore the possibility of using that agency's staff as the service provider for their own employees.

OMB Circular A-72 authorizes any agency, that provides and maintains Federal space occupied with other agencies where adequate health facilities are not provided by a tenant agency, to provide occupational health services for the employees of all such agencies. Likewise 34 CFR 271 provides that central supporting services may be established in Federal office buildings occupied by a number of executive departments and establishments and operated, where appropriate, by GSA or other agencies. Such interagency arrangements may be initiated by either the larger or the smaller agency, and formalized by an interagency support agreement, such as that contained in Appendix A. Consonant with 34 CFR 271, reimbursements for such services shall conform to existing law, and normally shall be made, except where the cost is nominal or where reimbursement may not be practical.

In such arrangements, the smaller agency must still appoint its own program coordinator; however, the division of responsibilities between that coordinator and the larger agency program staff could be modeled after those described above in Section I. In any case, a "tenant committee" should be established to assist the agency providing the service with the administration or coordination of the facility/service. Such committees should be composed of program coordinators, at least, and may include such other responsible officials as the participating agencies deem appropriate.

2. Using Contract Capability, Obtained in Cooperation with Other Federal Agencies

In many locations, there may be no single Federal agency program which can act as a service provider for other smaller neighboring installations. However, the combined employee populations of several local installations may be sufficiently large to support a contract for a cooperative program.

Organizing and administering such a program generally involves standard contracting procedures. However, because of the cooperative or joint nature of the program, one agency must be picked to serve as the principal contracting agent for all of the participating or purchasing agencies. The participating agencies are then bound to the contract with the service provider through a memorandum of agreement with the contracting agent.

The agency which serves as the contracting agent/broker may be one of three listed below:

- a. One of the participating or purchasing agencies
- b. Public Health Service (Division of Federal Employee Occupational Health)

In locations where PHS health units are operated and attended by a full-time PHS physician, DFEHO is willing to consider sub-contracting for the specialized services and skills required to operate an ECSP. Although the sub-contractor would work under the general direction of the health unit physician, participation in the sub-contract would not be limited just to those agencies which utilize the health unit

- c. Where neither of these options are feasible, Office of Personnel Management

Should the combined costs of the participating agencies be equal to or greater than \$100,000 annually, the agency serving as the principal contracting agent should conduct a mode of performance review in accordance with OMB Circular A-76.

3. Developing a request for proposals

Based on the program requirements identified, a statement of work must be developed and evaluation criteria established. A request for proposals can then be developed in coordination with the responsible contracting officer from the agency acting as contracting agent. (Appendix B suggests sample language for the technical portions of an RFP as well as some other programmatic factors to be considered. Language covering the contracting/business aspects of an RFP should be provided by the responsible contracting officer.)

4. Obtaining proposals

Because of the competitive nature of the procurement and the dollar amounts which will typically be involved, proposals may be solicited from all such qualified sources as the contracting officer may decide necessary to assure full and free competition. This may include publishing a synopsis of the RFP in the Commerce Business Daily and prior identification of public or private service providers who might be potential bidders.

Due to the relatively innovative nature of cooperative employee services counseling programs, it may also be desirable to hold a pre-proposal conference at which potential bidders can raise any necessary questions.

5. Evaluating proposals and awarding the contract

Proposals must be evaluated from two perspectives. Assessment of the business or financial aspects are the responsibility of the contracting office. The program aspects will be evaluated by a technical panel. Such a panel may be composed of a least 3-5 persons with personnel or programmatic expertise, selected by the participating agencies. Negotiations, if required will be conducted by the contracting office. Following submission of best and final offers, selection of the service provider and final preparation of the contract documents will be made by the contracting office.

B. Post-Award Functions

1. Contract changes and supplemental agreements

In any contract modification - whether by unilateral order or bilateral agreement - the contracting officer is the sole party authorized to change the terms and conditions of the contract on behalf of the government.

2. Monitoring and evaluating contractor performance

a. Responsibilities of the contracting officer's representative. A suggested list of responsibilities is contained in Appendix C

b. Responsibilities of the agency management committee

As indicated in Section I, each participating agency must designate a program coordinator to perform certain management functions. These coordinators shall form a standing management committee to perform the coordinator functions in Section I. The committee shall work in close cooperation with the contracting officer's representative. Independently, each coordinator must evaluate the effectiveness of their installation's total ECSP program, assessing how useful a part the cooperative program plays in the total effort.

Appendix A

SAMPLE MEMORANDUM OF AGREEMENT

1. Pursuant to the 42 U.S.C. 4541 (PL 91-616, as amended) 21 U.S.C. (PL 92-255, as amended), and 5 U.S.C. 7901, the _____ (Lead Agency) and the _____ (Participating Agency) hereby enter into an agreement for an Employee Counseling Services Program, effective _____. This agreement will continue until _____ or until cancelled by either party.

Strike one:

2. This agreement is entered into by the _____ (Lead Agency) for the operation of an Employee Counseling Services Program, as described below, for the employees of the _____ (Participating Agency).

OR

2. This agreement is entered into by _____ and _____ to procure the program services described below, which will be shared by agencies participating in the financial support of the procurement. _____ (Lead Agency) will contract on behalf of all participating agencies for these services in accordance with Federal Procurement Regulations.

3. The first two Acts cited above provide that Federal agencies shall be responsible for developing and maintaining appropriate prevention, treatment and rehabilitation programs and services for Federal civilian employees with alcohol or drug problems. Where feasible, these program services should be extended to families of employees with such problems, and to employees with alcohol or drug dependent family members. 5 U.S.C. 7901 provides that occupational health programs may be established to promote and maintain the physical and mental health fitness of Federal employees. In order to accomplish these objectives, an Employee Counseling Services Program will be established to provide counseling and other assistance to the employees and family members of Federal agencies which participate in the financial support of this program. The range of problems to be covered includes any emotional-behavioral problem -- especially those related to alcohol/drug use -- which may adversely impact on job behavior or performance. Services shall include: (1) acceptance of management, union, or self referrals where professional counseling is necessary, (2) evaluation of presenting problem(s), (3) referral to appropriate community treatment resources, (4) individual counseling at the site as appropriate, (5) monitoring of employee progress, (6) management consultations as requested, (7) training agency officials and employees, (8) statistical reports to participating agencies.

A. Policy concepts

The policy concepts under which the program will operate are contained in Federal Personnel Manual Chapter 792-5, Federal Personnel Manual Supplement 792-2, Federal Personnel Manual Letter 792-8 dated August 25, 1977, and Federal Personnel Manual Letter 792-9 dated May 23, 1979.

B. Scope of Work

1. See Appendix B to FPM Letter 792-_____, Section C. "Scope of Work."
2. Managers and/or personnel officers of participating agencies will provide advice and assistance in the application of policies, procedures and guidelines of the Employee Counseling Services Program. This includes the referral of employees for assistance, and the administration of appropriate personnel actions when indicated.
3. The service provider shall annually provide each participating agency with the statistical information required by the U.S. Office of Personnel Management.

C. Program Administration

1. Administration of the Program shall be the responsibility of the (Lead Agency). Administrative expenses shall be borne by the (Lead Agency) and shall (or shall not) be charged to participating agencies. Each participating Agency shall designate by name and/or title no more than one person who will represent that Agency concerning the program, its services and operations, and the negotiations concerning such with the (Lead Agency).
2. The funds transferred to the (Lead Agency) shall be used to support expenditures required in the operation of the program. Title to and ownership of property purchased from funds transferred under this Agreement shall reside with the (Lead Agency) for joint use of the participating agencies.
3. The estimated cost for the operation of the Employee Counseling Services Program for each Fiscal Year shall be furnished annually and will be considered a supplement to this Agreement. Billing shall be made in advance for the entire amount due from each Agency in accordance with budgetary requirements. Costs are allocated to each Agency as follows:
4. Provided funds are available, the agency (or agencies) for which the services are provided agree to make a further transfer of funds to the extent it is mutually determined that unanticipated exigencies such as pay adjustments, and unusual payments for sick or annual leave of employees assigned to the Employee Services Counseling Program cannot be absorbed within the limit of funds already transferred.
5. The (Participating Agency) shall be solely responsible, with regard to compliance with the Privacy Act of 1974 (5 U.S.C. 552a), for records pertaining to their employees, including responding to general inquiries, specific requests for access or amendment made by a participant, and third party requests for records and for identification of these records in the participating agency's Federal Register notice for the system of records covering them.
6. This Agreement may be amended by mutual written agreement. It may be terminated by the participating parties upon 30 days' written notice, provided that such termination does not require substantial additional financial support of the program by the remaining participating agencies for the rest of the Fiscal Year.

The _____ (Participating Agency) _____ agrees to reimburse the
_____ (Lead Agency) _____ for the year beginning
_____, (a set-up cost of \$_____ plus)
\$_____ per capita for each employee located within the greater
_____ area.

Agency population within this area is _____ employees.
Therefore the _____ (Participating Agency) _____ agrees to reimburse
the _____ (Lead Agency) _____ \$_____.

APPROVED:

(Signature)

(Name)

(Lead Agency)

(Date)

APPROVED:

(Signature)

(Name)

(Participating Agency)

(Date)

BILLING ADDRESS FOR PARTICIPATING AGENCY:

Appendix B

Request for Proposals: Sample materials and other factors to be considered

Language detailing the contracting and business aspects of a Request for Proposals will be provided by the responsible Contracting Officer.

The following two sections suggest:

- Sample statements on standard program or technical items for use in an RFP
- Additional program or technical factors which must be considered in developing an RFP

I. Sample statement on standard program or technical items

A. Background and Objective

42 U.S.C. 4541 (Public Law 91-616, as amended) and 21 U.S.C. 1101 (Public Law 92-255, as amended) provide that Federal agencies shall be responsible for developing and maintaining appropriate prevention, treatment and rehabilitation programs and services for Federal civilian employees with alcohol or drug problems. Where feasible, these program services should be extended to families of employees with such problems, and to employees with alcohol or drug dependent family members. 5 U.S.C. 7901 provides that occupational health programs may be established to promote and maintain the physical and mental health fitness of Federal employees. In order to accomplish these objectives, an Employee Counseling Services Program will be established to provide counseling and other assistance to the employees and family members of Federal agencies, which participate in the financial support of this program. The range of problems to be covered includes any emotional/behavioral problem -- especially those related to alcohol/drug use -- which may adversely impact on job performance or behavior.

Services shall include (1) acceptance of management, union or self referrals where professional counseling is necessary, (2) evaluation of presenting problem(s), (3) referral to appropriate community treatment resources, (4) individual counseling at the site as appropriate, (5) monitoring of employee progress, (6) management consultations as requested, (7) training of agency officials and employees (8) statistical reports to participating agencies. Acting on behalf of the participating agencies, the (Lead Agency) seeks the services of a qualified professional Counselor, hereinafter referred to as the Contractor or principal Counselor, who shall provide these services by a contract under management of the (Lead Agency).

B. Policy Concepts

The policy concepts under which the Program will operate are contained in the above cited statutes and in the Federal Personnel Manual Chapter 792-5, Federal Personnel Manual Supplement 792-2, Federal Personnel Manual Letter 792-8 dated August 25, 1977, and Federal Personnel Manual Letter 792-9 dated May 23, 1979.

These concepts include the following:

1. The Federal Government as an employer, recognizes emotional disorders, alcoholism or other drug abuse as treatable health problems.
2. Employees having one of these health problems should receive the same careful consideration and offer of assistance that is presently extended to employees having any other illness or health problem.
3. Agencies are not concerned with an employee's use of alcohol or other drugs except when it interferes with the employee's efficient and safe performance of his/her duties, reduces his/her dependability, or reflects discredit on the employing agency. In such situations, the Federal manager concerned will take action in the form of (1) non-disciplinary procedures under which the employee will first be offered rehabilitative assistance; (2) failing response which results in acceptable work performance, invoking regular, disciplinary procedures for dealing with a problem situation, and (3) apprising law enforcement officials when an employee's problem also involves criminal conduct potentially harmful to others.
4. The confidential nature of the medical/counseling records maintained in the operation of the Employee Counseling Services Program will be protected in accordance with requirements of Public Law 93-282 and the implementing Federal regulations, as well as Public Law 93-579 (Privacy Act).
5. Sick leave will be granted to employees for the purpose of treatment or rehabilitation as in any other illness or health problem in accordance with regulations of the U.S. Office of Personnel Management.
6. Employees of Federal agencies who themselves feel they may be suffering from emotional disorders, alcoholism or other drug problems, shall be encouraged to voluntarily seek counseling and information on a completely confidential basis by contacting the Employee Counseling Services Program directly.
7. The Employee Counseling Services Program shall refer the troubled employee to his/her personal physician, or established community resources and facilities, as available, for treatment and rehabilitative care.
8. The role of management is regarded as critical and will be stressed in implementation of the Employee Counseling Services Program. As specified in Part C below, training will be provided to managers by the contractor, who will encourage them to consult with the program counseling staff for advice in handling problem situations.
9. The support and active participation of labor organizations will be a key factor in the success of any Employee Counseling Services Program. Therefore, agencies are reminded of their obligations under 5 USC 71, to negotiate, when appropriate, with those unions which have been accorded exclusive recognition, or consult, when appropriate, with those unions which have consultation rights, in formulating and implementing ECS policies and programs.

C. Scope of work

1. General

The participating organizations include about _____ Federal agencies, or components thereof, with an aggregate population of approximately _____ employees. The Provider proposing to purvey this program should consider staffing so as to allow for case acceptance at regular times on every workday of the employee population at _____. It shall be the responsibility of the contractor to determine the need for regular or occasional part-time, associate counselors, counseling aides or other related health specialists, as well as for one principal counselor and clerical support.

The Provider shall be responsible for establishing and coordinating the program in close collaboration with and under the general oversight of the _____ (Lead Agency) and a committee of participating agency representatives. The Provider will plan, develop, use, maintain and manage a record system in accordance with applicable laws and regulations relating to alcohol and drug prevention, treatment and rehabilitation; the Privacy Act of 1974; and other applicable laws, regulations and guidelines governing confidentiality of medical counseling records, and will be subject to the penalties imposed by such laws for improper disclosure.

The Provider shall develop and conduct an initial three hour training program for each of the following audiences from every agency participating in the support of the program: supervisors/managers and union officials, security and guard forces, medical personnel, personnel and EEO staff. Such training shall be designed to help these groups use the program effectively in the performance of their responsibilities. Training programs will include all of the above listed personnel; no one session shall include more than 35 attendees. In addition, the Provider shall develop and conduct general employee education programs, designed to educate employees about alcohol and drugs; dependency and addiction; and its impact on the family. All of the above courses -- when delivered by a contractor (vs. a Federal agency Provider) -- are subject to the approval of the Government, prior to the performance of them.

The Provider will accept management, union or self-referrals, as well as referrals from health units and medical personnel providing occupational health services to agencies participating in this cooperative program. The Provider will consult with the referring party, providing guidance where appropriate, in confronting the employee's job behavior or performance problem.

Direct counseling will be offered to employees; the counselor's activities will be directed toward initial evaluation and when necessary, referral of the employee to community or other resources in such a manner as will permit appropriate and skillful management of the problems presented. The Provider must therefore develop and maintain close working relationships with community resources which offer treatment and rehabilitative assistance. Likewise, counselors must possess the necessary skills to enable them through interviewing employees to determine the nature of their problems. If necessary the counselor shall also refer the employee for further medical evaluation, diagnostic workup and such other health or psychiatric information as will permit appropriate case management.

Counselors shall also establish a method of monitoring the employee's progress in and cooperation with the recommended treatment. Where appropriate, and allowed by the confidentiality requirements, the counselor shall also apprise the referring management official of the employee's progress in treatment, assisting where possible in job adjustment.

2. Specific procedures for case handling

(a) Management-initiated referral

(1) Supervisors should:

- Be alert, through continuing observation, to changes in the work or job behavior, or both, of assigned employees.
- Document specific occasions when an employee's work performance, behavior or attendance fails to meet minimum standards or where the employee's pattern of performance appears to be deteriorating.
- Advise medical or counseling staff, or both, of the employee's problem, and the possibility of a referral to them. Supervisors must be able to describe job behavior to the counseling staff but should not attempt to diagnose or draw conclusions. This is a medical or counseling responsibility.
- Conduct an interview with the employee focusing on poor work performance and inform the employee of available counseling services if poor performance is caused by any personal or health problem.
- If the employee refuses help, and performance continues to be unsatisfactory, provide a firm choice between accepting agency assistance through counseling or professional diagnosis of his or her problem, and cooperation in treatment if indicated, or accepting consequences provided for unsatisfactory performance.

(2) Program counselors should:

- Interview management officials, as requested, and provide them with guidance in confronting employees with job performance or behavior problems. Advise management officials regarding client confidentiality requirements.
- Interview the employee and, with the employee's knowledge and written consent, obtain the appropriate information including medical history, if necessary, to determine the nature of the employee's problem.

- Determine the nature of the health problem, and if necessary, make referrals to the health unit or local community resources as may be necessary for further medical evaluation, diagnosis and/or rehabilitative assistance.
- After professional assessment of the case, advise the employee of appropriate, available community treatment resources, help make arrangements for utilizing them and encourage the employee to participate in a rehabilitation program.
- Maintain on-going contact with the community treatment program to which the employee is referred, and on-going contact with the employee.
- Throughout the treatment program, as allowed by the confidentiality requirements, be available to the supervisor to discuss rehabilitative efforts and their relationship to job performance; to the family; to the Health Unit's professional staff; or other treatment resources, for maintenance of a well coordinated rehabilitation program.

(b) Employee-initiated referral

- (1) When an employee self-refers to the Program, he/she will receive counseling and be referred to community resources or facilities for such assistance as is appropriate or necessary.
- (2) In such self-referral situations the confidentiality requirements will be strictly observed and the employee will not ordinarily be asked to sign a consent releasing information to his/her supervisor.
- (3) If an employee drops out of a treatment program, documentation of the case file should show that this has taken place and no further action shall be taken.
- (4) Should a voluntary referral case be in progress and the employee's supervisor contacts the counseling staff of program with documentation of the employee's work performance deterioration or aberrant behavioral patterns at work, the Employee Counseling Services Program will confer with the supervisor, as in Part C2(a)(1) above, but will adhere to the confidentiality requirements strictly, giving no indication of the employee's previous self referral. The employee may then, if appropriate, be contacted and advised of the potential need to sign a consent to give information to the supervisor.

D. Managers Relationship to the Employee Counseling Services Program

Managers are responsible for careful and consistent evaluation of the performance of their employees. They should feel free to seek the guidance of the Program staff in dealing with employee problem situations. They should unhesitatingly offer employees information on available health and counseling services, and, with the cooperation of personnel specialists, should seek to assist employees who may initially refuse help even though their work performance and behavior continues to be unsatisfactory.

Specific recommended management action is detailed above in Part C2(a)(1).

E. Program Coordinators Relationship to the Employee Counseling Services Program

Program Coordinators are the officials designated by each of the participating agencies to administer the Program for their respective employees. As such, they are ultimately responsible for the effectiveness of their agency's Program, even though many of the skilled services are provided by a contractor. Where that is the case, the responsibilities of an agency's program coordinator may include:

- Developing installation policy and program design
- Evaluating installation program results
- Serving as a liaison between the service provider and the installation's pertinent management systems
- With the other participating agency representatives, selecting and monitoring the service provider.
- In cooperation with the provider, preparing necessary management reports.

Although program coordinators do not provide day-to-day supervision of contractor personnel, a close and cooperative working relationship must be maintained. As indicated by the confidentiality regulations, program coordinators are part of their respective agency's alcohol and drug abuse prevention function; they and the contractor personnel are therefore equally subject to the confidentiality requirements, and the exchange of client information between them does not constitute disclosure under those regulations.

F. Role of Personnel Offices

Personnel offices of the agencies which participate in the cooperative Employee Counseling Services Program, will provide advice and assistance in the application of the policies, procedures and guidelines of the Program. This includes referral to the Program and the administration of appropriate personnel actions when indicated.

The staff of servicing personnel offices as well as officials designated for Privacy Act matters should be included among those who are assigned to attend training and educational sessions provided by the Contractor. They will also assist in the presentation of training and educational programs to other supervisory personnel of their agencies on a supplemental basis.

Personnel Offices will:

1. Foster union cooperation in program development and implementation.
2. Provide statistical and other supporting information about their work forces.
3. Provide resources and other assistance in regard to the training and education of their supervisors.
4. Work closely with the principal Counselor and/or his staff in resolving job related problems of employees participating in the program.
5. Ensure that steps have been taken to foster rehabilitation of employees before processing disciplinary actions against them.
6. Advise in the administration of disciplinary actions if these become necessary.

G. Role of the Contracting Officer's Representative

The agency signing the contract with the provider will designate a Contracting Officer's Representative (COR) who, working closely with a management committee of participating agencies, will monitor the performance of this contract on its behalf. The COR will provide no supervisory or instructional assistance to Contractor personnel. His/her function is primarily to provide the Contractor with working data. The COR is not empowered to make any commitments nor is he/she authorized to make any changes which affect the contract price, terms, or delivery. Any such proposed changes shall be brought to the immediate attention of the Contracting Officer for action. The acceptance of any change by the Contractor without the specific approval and written consent of the Contracting Officer will be at the Contractor's own risk.

H. Case Files

The Contractor will be responsible for maintaining complete, individual case files for every employee who is referred for assistance. Such case records will be maintained in accordance with the confidentiality requirements of PL 93-282 and the implementing Federal regulations (particularly section 2.11(n)), of 42 CFR Part 21 as well as PL 93-579 (Privacy Act).

All records of the Employee Counseling Services Program are considered to be under the jurisdiction of the agency for which the employee works. The Provider is a qualified service organization, as defined in Sec. 2.11(n). Upon termination of this contract for whatever reason, the records shall be surrendered to the Employee Counseling Services Program Coordinator of the agency.

I. Contractor Liability

The Contractor shall be liable for any loss or damage to any material serviced under the contract which is caused by the Contractor's failure to exercise such care in regard to said materials as a reasonable careful owner of similar materials would exercise.

The Contractor also assumes all legal and professional responsibilities and liabilities attendant on the professional practices in the rendering of health services.

The Contractor will submit evidence of liability insurance to the Government.

J. Rights in Data

The Contractor shall not publish or disseminate any data obtained, or information resulting from work pursuant to this contract without prior written approval of the Contracting Officer.

K. Privacy Act

1. The contractor agrees:

a. To comply with the Privacy Act of 1974 and the rules and regulations issued pursuant to the Act in the design, development, or operation of any system of records on individuals in order to accomplish an agency function when the contract specifically identifies (i) the system or systems of records and (ii) the work to be performed by the contractor in terms of any one or combination of the following: (A) design, (B) development, or (C) operation;

b. To include this solicitation notification contained in this contract in every solicitation and resulting subcontract and in every subcontract awarded without a solicitation when the statement of work in the proposed subcontract requires the design, development, or operation of a system of records on individuals to accomplish an agency function; and

c. To include this clause, including this paragraph c., in all subcontracts awarded pursuant to this contract which require the design, development, or operation of such a system of records.

2. In the event of violations of the Privacy Act, a civil action may be brought against the agency involved where the violation concerns the design, development, or operation of a system of records on individuals to accomplish an agency function, and criminal penalties may be imposed upon the officers or employees of the agency where the violation concerns the operation of a system of records on individuals to accomplish an agency function. For purposes of the Act when the contract is for the operation of a system of records on individuals to accomplish an agency function, the contractor and any employee of the contractor is considered to be an employee of the agency.

3. The terms used in this clause have the following meanings:

1. "Operation of a system of records" means performance of any of the activities associated with maintaining the system of records including the collection, use, and dissemination of records.

2. "Record" means any item, collection, or grouping of information about an individual that is maintained by an agency, including, but not limited to, his education, financial transactions, medical history, and criminal or employment history and that contains his name, or the identifying number, symbol, or other identifying particular assigned to the individual, such as a finger or voice print, or a photograph.

3. "System of records" on individuals means a group of any records under the control of any agency from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual.

II. Additional program or technical factors to be considered in developing an RFP

A. Preproposal Conference

Given the relative newness of cooperative Employee Counseling Services Programs among Federal agencies, a preproposal conference with prospective offerors may be useful. The purpose of such a meeting is to provide information concerning the Government's requirements which may be helpful in preparation of proposals, and to answer any questions which prospective offerors may have about the solicitation.

B. Qualifications of the Contractor and/or Counselors

The above Section IC, "Scope of Work" outlines the tasks to be performed by the provider. These tasks require expertise in:

- program management
- training and education
- and problem definition and referral to appropriate community treatment resources

Moreover, expertise is required in:

- performing these tasks in a work setting.
- dealing effectively with a broad range of behavioral problems -- particularly addiction and dependency, and its impact on the family.

Potential providers will present evidence of their capacity to perform these tasks through a combination of:

- appropriate formal education and training
- directly relevant experience
- and references which can attest to their effectiveness providing the required services in a work setting.

In selecting staff, potential providers should take note of Section I.I. above, relating to contractor liability.

C. Substitution of Personnel

1. The Offeror agrees to assign to any contract resulting from this solicitation those persons whose resumes were submitted with his/her proposal who are necessary to fill the requirements of the contract. No substitutions shall be made except in accordance with this clause.

2. The Offeror agrees that during the first ninety (90) days of the contract performance period no personnel substitutions will be permitted unless such substitutions are necessitated by an individual's sudden illness, death, or termination of employment. In any of these events, the Contractor shall promptly notify the Contracting Officer and provide the information required by Paragraph (c) below. After the initial ninety (90) day period, all proposed substitutions must be submitted, in writing, at least fifteen (15) days, (thirty (30) days if a security clearance is to be obtained), in advance of the proposed substitutions to the Contracting Officer, and provide the information required by Paragraph (c) below.

3. All requests for substitutions must provide a detailed explanation of the circumstances necessitating the proposed substitutions, a complete resume for the proposed substitute, and any other information requested by the Contracting Officer needed by him/her to approve or disapprove the proposed substitution. All proposed substitutes must have qualifications that are equal to or higher than the qualifications of the person to be replaced. The Contracting Officer or his authorized representative will evaluate such requests and promptly notify the Contractor of his/her approval or disapproval thereof.

D. Financial Disclosure Statement of all Contractor Personnel

Included in all proposals will be signed financial disclosure statements from the contractor and all subordinate personnel proposed to perform under the contract, detailing the extent of their financial interest in any community treatment facility or other resource to which employees might be referred as a result of this program.

E. Technical Proposal Evaluation Criteria

The following criteria are suggested for use in the proposal evaluation, with each criterion weighted as indicated:

<u>CRITERIA</u>	<u>WEIGHT</u>
1. Qualifications of Personnel Performing Training, Problem Evaluation, and Casework Management	50%
Specifically:	
Training experience	5%
General counseling and problem evaluation experience	15%

CRITERIAWEIGHT

Specific counseling experience with alcohol and drug dependent persons in an occupational setting	20%
Specific counseling experience with families of alcohol or drug dependent persons	10%
2. Technical Approach: Understanding the Problem	25%
a. Knowledge of employee counseling services program concepts, policy and operation	
b. Knowledge of principles of counseling in employee-labor-management situations	
c. Methods of maintaining required confidentiality of client information and problems which may be encountered	
d. Knowledge of needs and any special requirements of the organizations to be served	
e. Knowledge and use of existing area community treatment/rehabilitation resources	
3. Realistic Plan and Schedule	15%
a. Planned program, including training, counseling, and on-going collaboration with client agency administrators	
b. Completion of training in early months of contract	
c. Suitability and accessibility of office space	
4. Proposed methodology of performing required training courses	10%
a. Prior relevant training experience	
b. Availability of training materials	
c. Means for reinforcing initial training message	

Offerors shall submit information sufficient to evaluate their proposals based on the detailed criteria listed above. Failure to provide the information required in order to evaluate the proposal may result in rejection of the proposal without further discussion. Offerors shall submit their proposal organized in a technical quality on a 100 point scale for a total rating of 0 to 100 points.

Equal weight will be given to the business/cost aspects of the proposal.

F. Program Initiation

The Contractor for the Employee Counseling Services Program will initiate the program by providing training sessions for key employees of the agencies to be served - including personnel, EEO, and medical officials; security and guard forces; and 15% of the supervisors and interested union officials.

The training of these officials about the Employee Counseling Services Program, as herein described, shall include, but is not limited to the following topics:

1. Availability of advice and consultation for supervisors and other management officials
2. Definition of a problem employee
3. Supervisor's role in dealing with a problem employee
4. Need for client privacy and confidentiality
5. Self vs. management or union referrals
6. Method of providing feedback to referring official

The Contractor shall arrange a sufficient number of training groups and training sessions to accomplish the training of approximately 15% of supervisors from each participating agency within the first 100 days of the contract period; an additional 40% within the next 100 days; and the balance during the remainder of the first year.

Within the first 100 days, the provider shall also orient or otherwise inform all employees covered by the Program of its operation.

G. Deliverables and Time of Delivery

The Contractor shall submit to the Contracting Officer's Representative one copy of the following reports in the time periods specified below:

1. Monthly report of training/educational sessions held to include not less than a summary of the training material covered; the name and agency of all supervisors who attended training sessions; samples of educational materials distributed.
2. A monthly report of all new cases referred by agency and classification of health problem(s).
3. Monthly status report on all active cases including information on number of employees counseled by agency; classification of health problem; family involvement; type of referral made and the resource to which the employee was referred; prognosis, and disposition of cases dropped and completed.

Appendix C

Responsibilities of the Contracting Officer's Representative

The principal areas of responsibility of the COR during contract performance are summarized below:

1. Monitor the contractor's performance to assure compliance with technical requirements of the contract.
2. Review and approve progress reports, technical reports, and other items required for approval. Notify the Contracting Officer if said reports or other items submitted are to be rejected and state basis for rejection.
3. If performance is not satisfactory or if problems are anticipated, notify the Contracting Officer as to the cause and recommend a course of action from a technical standpoint. Immediate notification is essential to assure that the Contracting Officer takes appropriate action to protect the Government's rights under the contract.
4. Advise the contractor that in the event he desires to propose a change, he should submit his request in writing to the Contracting Officer and indicate the effect the change will have on the contract terms and conditions. The COR will be required to review the proposed change and advise the Contracting Officer as to whether the proposed change should be incorporated into the contract.
5. Assure that changes in work under a contract are not implemented before written authorization or a contract modification is issued by the Contracting Officer. Costs for work performed may not be allowed if not authorized under the contract. Unauthorized changes embarrass the Government as well as the contractor. No change or commitment should be directed without prior written authorization by the Contracting Officer.
6. Recommend in writing to the Contracting Officer changes desired in the contract with justification for the proposed change.
7. Furnish technical advice relative to Contracting Officer approvals of sub-contracts, overtime, travel to general purpose meetings, etc.
8. Keep the Contracting Officer informed on the context of communications with the contractor in order to prevent possible misunderstandings or situations that could affect contract terms and conditions and become the basis of future claims against the Government.
9. Make site visit, when appropriate, to the contractor's facility and check contractor performance to include the following:
 - a. Actual performance versus scheduled and reported performance. Inform Contracting Officer of any adverse conditions noted.



- b. Changes in technical performance which may affect financial status, personnel or labor difficulties, overextension of facilities, etc.
 - c. Verify that the employees charged to the contract are actually performing work under the contract. For example if the contractor claims that ten persons are assigned to the contract on a full time basis, there should be a determination that ten individuals are performing work under this contract. Also, the COR should evaluate whether the number of personnel assigned are in fact necessary to fulfill contract requirements.
10. At the completion of the contract, advise the Contracting Officer concerning the following:
- a. All articles and services required to be furnished and/or performed under the contract have been technically accepted.
 - b. Contractor disclosures regarding Patent and Publication clauses of the contract.
 - c. Disposition of all property matters.
11. Provide liaison between the agency management committee and the Contracting Officer.
12. Facilitate liaison between the contractor and the agency management committee.
13. Provide Federal policy guidance to both participating agencies and the contractor, except in matters involving legal interpretations. In such situations, the contractor must assume responsibility for obtaining appropriate legal guidance.